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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,942	02/08/2005	Giuseppe De'Longhi	23192	3137

7590 01/12/2009  
The firm of Karl F Ross  
5676 Riverdale Ave  
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Riverdale(Bronx), NY 10471

EXAMINER
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VAN, QUANG T

ART UNIT	PAPER NUMBER
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3742

MAIL DATE	DELIVERY MODE
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01/12/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/524,942	DE'LONGHI, GIUSEPPE	
	<b>Examiner</b>	<b>Art Unit</b>	
	Quang T. Van	3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 05 November 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 4,6-8,10-13,17 and 18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4,6-8,10-13,17 and 18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 4, 6-8, 10-13, 17-18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In this case, the term “**slidably receiving** the one resistor”, recited in claim 17, line 10, is considered a new matter because it was not described in the specification at the time the application was filed. Cancel the term or clarification is needed.

3. Claim 10 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. In this case, the term "the one resistors has two short and opposed portions that remain cold upon electrical energization of said one resistor", recited in lines 2-4, is failed to comply with the enablement requirement. How cans one resistor with electric current run through has portions remain cold and others are heated? Clarification or delete of claim is requested.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. In claim 6, the term "said baffle means", recited in line 2, is indefinite because lacks antecedent basis in the claim and proceeding claim 17. Correction is required.

### ***Claim Objections***

7. Claims 10 is objected to because of the following informalities: The term "the one resistors" recited in line 2, has a typo error and should be changed to "the one resistor". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

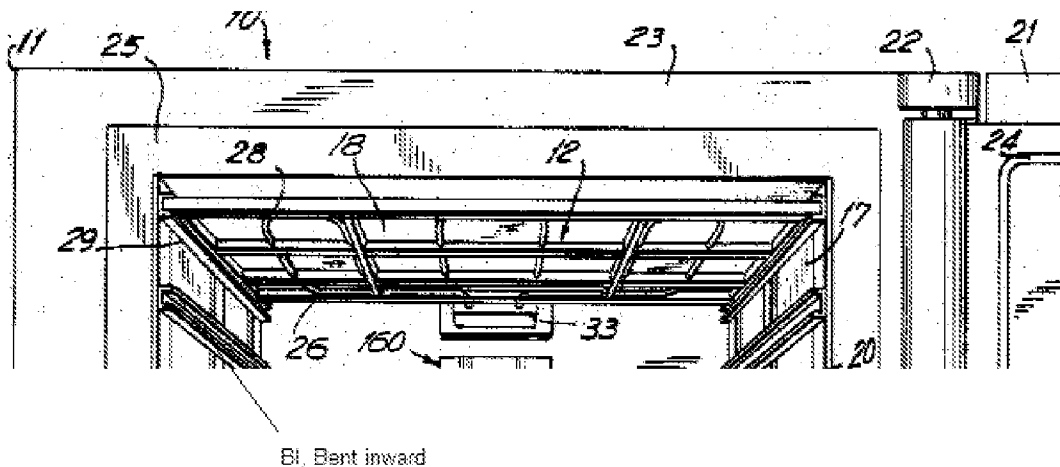
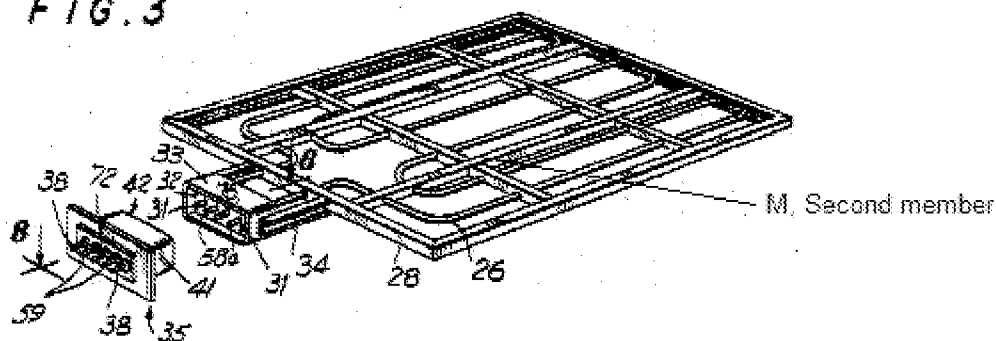
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 4, 6-8, 17-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Olof Fingal Christiansson (US 3,548,154). Olof Fingal Christiansson discloses an electric heating oven comprising a housing (10); a plurality of resistors (26, Figure 1) in the housing electrically energizeable to radiate heat, at least one of the resistors (26) having a longitudinally extending portion and subdividing the housing into an upper baking chamber and a lower baking chamber; and a support frame in the housing and

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including a pair of longitudinally extending first bars (28) flanking and slidably receiving the one resistor (26) and forming a longitudinally extending seat therefore, the first bars (28) being oriented so as to deflect radiant energy from the portion into the lower chamber, second transversely extending bars (29) bent upward and connected to said first bars (Figure below), and portions bent inward (BI) and holding the portion of the one resistor in the seat.

**FIG. 3**

### ***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olof Fingal Christiansson (US 3,548,154) in view of Thomas (US 4,623,781). Olof Fingal Christiansson discloses substantially all features of the claimed invention except resistor control means. Thomas discloses resistor control means (28, co. 10, lines 30-63). It would have been obvious to one ordinary skill in the art at the time the invention was made to utilize in Olof Fingal Christiansson resistor control means as taught by Thomas in order to turn the resistor on and off to control the temperature of the oven.

12. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Olof Fingal Christiansson (US 3,548,154) in view of Jordan (US 3,270,183). Fingal Christiansson discloses substantially all features of the claimed invention except a control means comprises a bimetallic thermostat electrically connected in series with said resistor. Jordan discloses a control means comprises a bimetallic thermostat (75) electrically connected in series with said resistor (col. 8, lines 39-68). It would have been obvious to one ordinary skill in the art at the time the invention was made to utilize in Olof Fingal Christiansson a bimetallic thermostat electrically connected in series with said resistor as taught by Jordan in order to control the temperature inside the oven.

### ***Response to Amendment***

13. Applicant's arguments with respect to claims 4, 6-8, 10-13 and 17-18 have been considered but are moot in view of the new ground(s) of rejection.

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14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang T. Van whose telephone number is 571-272-4789. The examiner can normally be reached on 8:00Am 5:00Pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu Hoang can be reached on 571-272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Quang T Van/  
Primary Examiner, Art Unit 3742  
January 7, 2009

Quang T Van  
Primary Examiner  
Art Unit 3742